Mark A. Serlin, CSBN: 122155 1 SERLIN & WHITEFORD, LLP 2 700 E Street Sacramento, CA 95814 3 Telephone: (916) 446-0790 (916) 446-0791 Facsimile: 4 Email: mserlin@globelaw.com 5 Attorneys for Creditor **AG-SEEDS UNLIMITED** 6 7 UNITED STATES BANKRUPTCY COURT 8 EASTERN DISTRICT OF CALIFORNIA 9 (SACRAMENTO DIVISION) 10 In re: CASE NO. 15-29136 11 Chapter 12 **LAND SAMRA** 12 P&M INVESTMENTS, LLC, DCN: MAS-10 13 **DECLARATION OF MARK A. SERLIN IN** 14 Debtor. SUPPORT OF MOTION TO DISMISS CASE BASED ON DEFAULT UNDER 15 **CONFIRMED PLAN** 16 Date: February 5, 2018 Time: 10:00 a.m. 17 Dept: A 18 19

I, Mark A. Serlin, declare:

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- 1. I am an attorney duly licensed to practice law by the State of California and am authorized to practice before this Court. I have been counsel of record to creditor Ag-Seeds Unlimited ("Ag-Seeds") throughout this case and remain counsel of records for Ag-Seeds. I make this declaration based on personal knowledge, and if called as a witness to testify as to matters stated herein, I would be willing and competent to do so.
- 2. The Chapter 12 plan ("Plan") which was ultimately confirmed by this Court (docket no. 453) requires, inter alia, that payments of \$30,000.00 per year be made not later than December 15th of each year to Ag-Seeds. Although the debtor made the initial Plan payment due in 2016, the payment on December 15, 2017 was not made.

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3. In connection with the Plan, Ag-Seeds and the debtor entered into a settlement
agreement and stipulation for plan treatment ("SA"), a true and correct copy of which is attached
hereto as Exhibit A. The SA incorporates by reference a stipulation for entry of judgment
("Stipulation") in a related state court action, which Stipulation is itself an exhibit to the SA. The
Stipulation, at paragraph 4(A), provides that if any defaulted payment is not made within five
days' notice via fax/email to debtor's counsel of record herein, Ag-Seeds may apply ex parte for
judgment. Debtor's counsel of record in the state court action and the instant case is and was Noel
Knight.

- 4. On October 12, 2017, I sent a letter to Noel Knight reminding him that the first annual payment of \$30,000.00 required under the Stipulation was due by December 15, 2017. A rue and correct copy of that letter is attached hereto as <u>Exhibit B</u>.
- 5. On December 18, 2017, I sent via email a notice of default to Noel Knight. A true and correct copy of that email is attached hereto as <u>Exhibit C</u>.
- 6. As of the date of this declaration, no payment has been received as required by the Plan and SA from debtor or any other person. As such, given that more than five business days have elapsed since notice of default was given and there has been no cure, the default is irrevocable. I have verified with my client that my client did not receive the required payment.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Sacramento, California, on December 29, 2017.

/s/ Mark A. Serlin MARK A. SERLIN

 $S: Active\ Files AG-SEEDS \ STEVE\ SAMRA\ FARMS \ CONSPIRACY\ CASE \ BK \ court\ does \ default\ dismiss. mas\ decl. docx \ default\ dismiss. decl. decx \ decx \$

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